



Russell Patton Davis  
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July 4, 2004

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<b>Mail Stop Patent Petition § 1.103(a) NO FEE</b> Commissioner for Patents P.O.Box 1450 Alexandria, VA 22313-1450 <b>Re: Application 09/891,757</b>	Director Donald T. Hajec, Director Technology Center 3600  Thomas Price Mail Stop PCT, Attn:ISA/US Commissioner for Patents  P.O.Box 1450 Alexandria, VA 22313-1450
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Mr. Hajec:

Examiner Thomas Price took no notice of either the law, the patent application or the petition to reconsider restriction and associated correspondence. His January 14, 2004 action was out of sequence in the volley because of his failure to respond to my correspondence. His action followed a threat he made to me of the trouble he would make because of my refusal to remove his actions from the court action that is a remedy to racketeering. In that there was no honor to his offer there is no advantage in letting him off the hook. Then he swallowed the hook deep. His defiance of the law and due process earns him a felony charge under Virginia law and a civil charge under federal law. The aid that Peter Poon and Donald Hajec have provided in abetting Price's felony may cause them to forfeit their freedom and estate if Mr. Price forfeits his. The economic fruits of Price's felony with respect to the international patent may make it very easy for a jury to align the crime with Virginia's treason statute. The ecological fruits of Price's felony and the recent unexpected demise of Virginia's shellfish baron of natural causes at age fifty-five should make it clear to you that God may not be turning a blind eye to this felony. You may wish to reevaluate your position. Given the nature of the felony charge an agency based defense of the felony is not lawful. Neither is the agency funding of that defense effort lawful. And those who might stand in Ballard's place have scant sources of untaxed, undeclared, income that could shield the felon.

**I petition you to answer the correspondence that predates Price's January 14, 2004 action.**

Should you fail to render the process that is due my next missive may be an arrest warrant supported by declaratory decree from a Virginia jury. The basic pleading for the declaratory decree is attached. The pleading will be brought up to date before the hearing. You will not win with Ballard dead.

**Moreover, I petition that you abandon Price's January 14, 2004 action against 09/891,757 and your refusal to give due process to PCT/US03/02250..** No fee is required for the USPTO to process this application for suspension as the fault and felony lies with the USPTO's agents in their personal capacity.

Conceiting the authority of internal operational documents such as MEP and PCT manuals above the formal directives of the sovereign that exist in the statutes and duly authorized administrative code is a §18.2-481(5) felony. The lawful authority on "unity of invention" is the CFR.

**"CFR Title 37 § 1.142 Requirement for restriction.**

*(a) If two or more independent **and** distinct inventions are claimed in a single application, the examiner in an Office action will require the applicant in the reply to that action to elect an invention to which the claims will be restricted, this official action being called a requirement for restriction (also known as a requirement for division)."*

*It is also the understanding and declaration of this jury that the this duly authorized regulation specifically states both "independent **and** distinct". When an agent of the sovereign chooses to execute that law as either independent **or** distinct " they commit a conceit of authority that is a VA§18.2-481(5) felony under the statutes of Virginia. When committing such a criminal conceit of authority the agent exposes their personal capacity to civil and/or criminal remedy under VA§18.2-481(5) as the criminal's honorable office may never commit treason against its sovereign. Moreover, such a crime harms a citizen's equity interest in their sovereign.*

Both 09/891,757 and PCT/US03/02250 address 'Integrated Systems'. Without the total of the integration, the most economical way to raise the quantity of shellfish required by the market is not to raise the quantity of shellfish needed by the environment. The unity of the invention allows those quantities to be decoupled in the optimization process and the shellfish culture's market quantity to be submerged within the quantity produced to meet the needs of the environment. Please see the amended Claim 41 of 09/891,757.

CLAIM 41 (currently amended) I claim as my invention the process of billions-scaled shellfish hatchery production with early release so that the swarm of shellfish young is so large and so dispersed that the larvae's predators can eat till they are stuffed and there is still a high enough survival rate that the strategy is economically attractive. The integration of this system of shellfish production and the design algorithm of claim 40 made this surprising invention evident wherein the most economical way to raise the quantity of shellfish required by the market is to raise the much larger quantity of shellfish required to restore the health and productivity of our waters.

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In his felonious in office action of 18 Feb, 2004 on PCT/US03/02250 (PCT/US03/3997 duplicate # given) Price was defied the law and ignored the process documents when he failed to respect the ubiquitous CLAIM 0 and called for a 49 part division and an INVITATION TO PAY ADDITIONAL FEES of \$10,080.

Sincerely,

Russell P Davis  
757-651-2234



**VIRGINIA: IN THE CIRCUIT COURT IN THE CITY OF VIRGINIA BEACH**

**In re: RUSSELL PATTON DAVIS, CITIZEN OF VIRGINIA**

**PETITION FOR DECLARATORY DECREE BY JURY**

July 26, 2004; Amendment submitted 8/16/04

**5 To the Honorable Judges and Jury at the Circuit Court in the City of Virginia Beach:**

1) I, Russell Patton Davis, residing at 1521 Quail Point Rd., Virginia Beach, VA 23454 (757)651-2234, come to this court to seek a VA§8.01-191 remedial declaratory decree from the Sovereign People of Virginia by the voice of a Jury in order to establish the contested boundary between the prerogatives of ruling and statutory treason as defined in the Statutes of Virginia,  
10 Chapter §18.2 Section 481 paragraph (5).

1A) It seems that no lawyer will bring any matter pertaining to statutory treason before a Judge as that statute appears to be the only statute in our Nation that enables a civil and criminal remedy against a Judge's personal capacity should a Judge "resist the execution of the laws under the color of its authority" by ruling contrary to the statutes. Knowing the power of the  
15 Court I only hazard a pro se pleading that stands upon §18.2-481(5) as a last resort in avoiding grave consequences to myself, Virginia and our Nation.

1B) In the recent past, it was possible to manage this matter so that the conflicting interests of the Sovereign People and the professional interests of Judges do not come into conflict. This no longer appears to be possible since a taught web of crimes coherent with a certain party's  
20 business interests is unabated. Given the conflict of interest every Virginia judge has when declaring the bounds Statutory Treason, only a jury may honorably and lawfully rule on the facts of the law raised in this petition.

1C) There is no opponent to be joined in the hearing of this petition since only the law is being declared, not a particular instance of guilt. That will come later, provided that I am allowed to stand with the Statutes of Virginia as my right. This opponent-less format for declaratory decree is authorized by Virginia Statute Chapter § 8.01 Section 191 and may not be resisted by the court without breaching the bounds of Chapter §18.2 Section 481 paragraph (5).

1D) None of the wrongs that provoke this remedy appear to have expired according to the Virginia Statute of Limitations, Chapter §8.01 Section 229 paragraph E(1), and because of 810CL03002416 that was dismissed for ‘excessive’ continuance.

1E) An appendix is attached to a printed edition of this pleading containing sections of the Statutes Model Decrees and supporting documents. Please accept this appendix as an aid to the Jury’s deliberation and decree.

2) The ten requested decrees are intended to clearly define the bounds of a certain elitist tradition that is a felony under Virginia Statute of Chapter §18.2 Section 481 Paragraph (5). This felony is the same conceit of authority that took the black man by the arm in 1619 and effectively said “You are not one of the elite so our law will not protect you from me – As far as you are concerned I AM the law.” In our hearts we know such conceits of authority are just plain evil. Our elected representatives put the authority of their people’s understanding into Virginia Statute Chapter §18.2 Section 481Paragraph (5) which states that “*resisting the execution of the law under the color of its authority*” is a class two felony. Within this context, it is fitting to refer to “§18.2-481(5) felony” as Statutory Treason. Without this Virginia Statue, such conceits of authority are without restraint and enable a form of racketeering by those vested with honorable office such as “Commissioner of the Virginia Marine Resources Commission”.

3) I pray for decrees to declare the laws specific to the web of wrongs that brings me to this court. I hope that the Jury's ten unflinching declarations of the laws will discourage a continuation of the felonious conceits of authority and other crimes that form a pattern consistent with racketeering in support of MRC Commissioner Chad Ballard's business interests.

50 4) MRC Commissioner Chad Ballard probably grosses some 20 million dollars annually on the harvest of about 100 acres of clams. His net profit on that gross is an estimated 10 million dollars. The market price/demand relationship for products like clams is known to be inelastic, that is a ten per cent increase in the quantity supplied to the market produces more than a ten percent drop in price. My technology with international patents pending should achieve more  
55 than a 100 fold increase in the cost effectiveness of hatchery operations for shellfish such as oysters, clams, scallops, shrimp, and lobster. MRC Commissioner Ballard's way of business may not survive the large increase in the productivity of our water that this new technology enables.

60 In addition to the vestment of his office, Shellfishg baron Chad Ballard probably has several million dollars in cash income to further encourage people to pursue his interests. I cannot say that his cash income was not reported to the IRS, but his clam landings are not represented in Government statistics.

65 5) While I cannot directly attack a probable racketeering boss's wrongs, I could, subsequent to the Jury's declaration of the law, prosecute Jerry Showalter, Bob Grabb, William Rickards, Thomas Price, and Dr. Gene Burresson of VIMS. Criminal prosecution will probably produce little more than probation given Virginia's long tradition of overlooking §18.2-481(5) felony.

Subsequent civil remedy may apply enough pressure so that the racketeering boss will be  
70 fingered for prosecution. I would have no appetite for tackling a racketeer except that I am  
allowed no alternative excepting emigration or failure. I have fourteen generations of people in  
Tidewater and raising shellfish is the first profession I desired. Now at age 51 and having young  
children and older parents I have bet my life savings on shellfish hatchery inventions to enable  
restoration scale hatcheries. Neither emigration nor failure is preferable to a long hard legal  
75 battle.

It appears that the latest physical attack on the hatchery took place on 6/25/2004. That attack  
made it clear that a legal battle was essential to success. That attack also inspired inventions that  
make restoration scale hatchery operation much less vulnerable to attack and much easier to  
80 scale up to the size needed to restore by our waters. In the appendix, you may find the  
provisional patent application describing the plan to implement those inventions here and the  
attack that inspired them.

5) The civic nature of this endeavor is evidenced by the attached application for 2700-acres of  
85 shellfish leasehold to be a seeded gift to the people of Virginia Beach to pay for a proposed  
“Pleasure House Creek Restoration Center”. Expanding the scope of the proposal to a “Coastal  
Restoration Institute” is technically and financially feasible.

My intention is to fully restore the waters of Virginia Beach by populating it with the full cohort  
90 of shellfish species such as is needed rebuild our water’s food chain from the bottom up and to  
effect oyster restoration by the means of natural community succession combined with the

environmental services to oysters that the full cohort of species provide. Clams are an essential and dominant pioneer species in the community succession. My initial labor to advance pioneer settlement and community succession is to set pepper flake sized clam larvae at a rate of 10 million per acre over the leasehold. The goal is to produce a clam set that is large enough to be 'normal' when seen in a geological time frame. Such a normal clam set can feed the predators until they are satiated and leave enough survivors to fully saturate any niches that are normally opened by passing hurricanes. I produced three to eight billion hard clam larvae in the spring hatchery season of 2003 and probably 26 billion so far this year. It may take a set of 60 billion clams to rise above the threshold of predator satiation and reach niche saturation. Only a modest portion of the surviving 1 billion adult clams to be raised on the 2700 acres will be harvested since that would be many times more shellfish than the market can readily absorb while maintaining a good price. Even so, the large shellfish leasehold is essential if seeding with highly mobile larvae is to be effectively contained and the economy of the larval seeding strategy achieved. The U.S. military has restrictions in the bottom of Chesapeake Bay flanking the leasehold so the combined area under protection may be large enough to contain the larvae's movement. A leasehold that was only as large as the market would not contain the clam larvae well enough to avoid such a harvest of escaped clams that the market would be glutted and clam prices depressed. A small protected area would result in the clam harvest not being profitable enough to fund the breeding of the full cohort of species as is needed by the environment. Neither could the market surplus of clams be preserved from harvest so they could provide the environmental services they offer. The large leasehold or protected area is essential to the success of the operation. Moreover, such an abundance of clams on a large acreage makes clam market promotional events such as a spring and fall public clamming festival and a dig-your-own

115 clamming operation on the central flats of the Lynnhaven possible. These events would further  
enhance the quality of life in Virginia Beach.

Swarm spawning over a large area has been nature's strategy. By nature's record left in the marl  
deposits along the York River bluffs, Calvert Cliffs and at Moyock Sand Co., nature has declared  
120 that the larval swarm strategy is successful when the swarm is large in proportion to predation.  
Extensive saturation seeding is needed to achieve that proportion otherwise; the predators will  
likely migrate to the 'hot spots' for feeding.

A huge number of other species are prospered by this extensive saturation seeding strategy.  
125 Over the years, this large, rich feeding ground can make Virginia Beach a recreational fishing  
meca.

Under those proportions, it is neither necessary nor cost effective to employ the politically  
unacceptable expanses of predator exclusion net over the bottom such the practice of Chad  
130 Ballard. The labor intensive nature of predator exclusion net limits clam culture to small-plots  
in the shallow waters where seagrass should be growing.

8) The pattern of racketeering against my enterprise has been varied and relentless over a period  
of four years.

135 A) §18.2-481(5) felony has been employed by the MRC engineering and law  
enforcement staff.



B) In 2001, my hatchery vessel, "The Mama Cass Ostrea", was attacked about eight times while anchored in Lynnhaven Inlet. Some of those attacks displayed an intelligence that indicated that it was not the work of children with too much time on their hands. Removing wire rope clamps so that bad weather will finish the destruction is an attack that is consistent with a pattern of racketeering.

C) VIMS appears to have taken "extension service" to mean "advance Ballard's interest". VIMS' Dr. Burrenson has gone so far as to perjuring himself at a MRC hearing in support of Ballard's interest in suppressing a proposed oyster and clam restoration project for the Pagan River. It mattered little that I had experimental results on an oyster culture practice that doubled the survival rate of the older disease compromised oysters and that all I was asking for was more time to confirm the initial results. The Virginia perjury statute § 18.2-434 is appears to be scant remedy to a citizen wronged by perjury like that. But given the intended results of perjury the crime against the citizen's equity interests may have a remedy under §18.2-481(5) when given the support of declaratory decree. The statutory nature of Dr. Burrenson's position as advisor on marine science to the Virginia Marine Resources Commission makes his perjury doubly fit for prosecution under §18.2-481(5). When the audio recording of the MRC hearing containing the perjury was requested under the FOIA the MRC cut the beginning and offending portion of Dr. Burrenson's testimony. That bit of trickery by the MRC is another probable §18.2-481(5) felony.

160 C) VIMS extension staff have also refused to extend their knowledge to me except to  
misinform or discourage. When under the purpose of collaborating with VIMS as  
required by Virginia's "Fisheries Resource Grant Program", I write to VIMS extension of  
diminishing the overwhelming significance of predator pressure by the use of  
geologically ordinary swarms of spawn, the extension agent responds with objections  
based upon the effect on price and gives other information that he should know is false  
165 unless he is unbelievably incompetent.

D) The blackballing is completely without mask in the 2003 administration of Virginia's  
Fishery Resource Grant Program. My 2002 application was given objection that the  
ordinary event of swarm spawning was without a 'scientific basis'. When I responded to  
that criticism in this year's FRGP, my application was rejected without the peer review  
170 and critique required by due process. That conceit of authority by William Rickards is  
another probable §18.2-481(5) felony. Mr. Rickards has also defied FOIA requests  
regarding the terms of the agency relationship he received from the people of Virginia.

175 E) Thomas Price has also resisted the execution of patent law under the color of the law  
that defines his office as patent examiner. A single patent may encompass multiple  
inventions provide the aggregate of inventions forms a unified invention. Title 35 U.S.C.  
121 explicitly defines the boundary for unity-of-invention and allows multiple invention  
claims within one patent provided that the claims do not constitute inventions that are  
both "*independent and distinct*". When Patent Examiner Thomas Price implements the  
180 law as either *independent or distinct* he resists the execution of the law under the color  
of its authority. Patent Examiner Thomas Price has held that each of the over 49 claims

was a separate invention and that I must immediately pay over ten thousand dollars or abandon my patent. I have neither the cash nor the credit to pay such a fee. Thomas Price's crime rip's away the bulk of my estate.

185 The effect of such a conceit is to break me financially, or to prevent me from having both the resource to preserve my right to my intellectual property and the resources to implement the swarm spawning. The plausible motives for his conceit of authority are either that he has been influenced by a racketeer or that he is just too lazy to do his job. Either motive may be lawfully sufficient for both criminal and civil prosecution under  
190 §18.2-481(5). The legal basis for a declaratory decree against the examiner's conceit will be addressed later in this pleading after all of the required groundwork has been laid.

F) In late June of 2004 a Virginia Beach policeman singled me out. He ordered me not to beach my 16' aluminum motorboat on beaches at the crab creek boat ramp. After  
195 discussions with the officer on June 25<sup>th</sup> I beached at a less secure location where my outboard motor was promptly sabotaged by the introduction of snippets of fine fishing line that would jam the motor's reed valves. In the course of the attack, the carburetor attachment bolts were left loose enough to leak air and require immediate repair, so no permanent damage was done to the motor. But since I had no quick method of returning to  
200 the hatchery an attack on the hatchery could have been safely be executed under the cover of bad weather and darkness.

On June 25<sup>th</sup> I was expecting to induce spawning by means of thermal stimulation within the next couple of days. Given the large volume of water needed by about 5000 clams a

205 low tide during the heat of the day was needed to facilitates that labor. The clams to be spawned where generally very large and well fed. Given the published research and the appearance of the clams I estimated that the clams where two thirds female with the females averaging sixteen million eggs. My previous day's inspection indicated that about half the eggs were well rounded and mature (26 billion eggs ready to spawn).  
210 Another 2000 clams had been starved in a three-week-long prototype larvaculture-in-mesocosm experiment and had very few mature eggs.

It rained off an on for much of June 25<sup>th</sup>. I returned to the hatchery after dinner with my wife. I had to walk the 16' motorboat back to the hatchery because it would not start.  
215 Around 4:00AM, I exchanged about 10,000 gallons of water in the vessels used to condition the clams for breeding. About 10:00AM I inspected a representative sample(~28) of clams for gonad condition.

To the best of my knowledge, clam ovaries usually contain many levels of egg ripeness  
220 and only the mature eggs will be shed in a natural spawn. The attachment of clam eggs to the ovary is analogous to the attachment of blue berries to the branch where the ripe blueberries can be coaxed into the bucket with a gentle rub while the unripe blueberries hold tenaciously to the branch. The seven conditioning vessels contained clams that had shed their eggs regardless of ripeness. These clams probably were chemically strip-  
225 spawned by convulsion inducing neurotransmitter drugs, perhaps in the epinephrine-family (includes L-dopamine and meth-amphetamine) combined with potash. This seems doubly likely since the spawning occurred in the absence of normal triggers (high

photosynthetic production cues and heat). Those natural spawning triggers never occur on a cool rainy night following a cool rainy day in June. It is reasonable to believe that such a strip-spawning on such a day is a drug induced. I gave the seven 1500 gallon conditioning vessels no such drug treatment. Moreover, two of those vessels had been well-fed for only one week after being starved for three weeks in a zooplankton-clam culture experiment that was a larva-culture prototype using adult clams and seaweed to maintain water quality under the heavy application of plankton feed. Those two vessels of clams could not naturally spawn at that time. There may be other possibilities for producing a natural spawn that night but none appear likely given the ejection of immature eggs.

Then I was unable to purchase replacement chowders that would have been naturally conditioned by this time - Virginia clam dealers gave me the 'I'll call you. Don't call me.' treatment.

The web of crimes is so tightly and consistently strung and over the range of methods and officials and years that the web looks like racketeering. MRC Commissioner Chad Ballard is a major beneficiary of those crimes.

It seems that either I must legally defend my rights or leave.

9) Therefore, it is prudent to address the convictable felonies now in declaratory decree. If this Honorable Court declares the law on these matters, perhaps these crimes will cease to be

attractive to the criminals. My hope is that a respite from crime will allow me the time needed to succeed in getting the Mayor and the city fathers to bless a very large civic shellfish leasehold stewarded by Shellfish-Unlimited.org for the benefit of Coastal Restoration.

255 10) I am also particular in asking the Honorable Jury for a general declaration of the law so that it will powerfully encourage our Judiciary and Executive branches to ennoble themselves by diligent obedience to their Sovereign. It must be the role of the Jury to declare the law because the other judges in Virginia would not bow to a decree from a circuit court judge. But the whole Judiciary is apt to respect the power of a jury whose voice resounds with the authority of seven  
260 million Virginians and all their ancestors. Underneath the vestment of office our Executive and Judicial branches are just human, and subject to all the corruptions of expediency and corruptions of convenience that are common to men not completely anodized and ennobled by obedience to a sufficiently high authority. Even though I have witnessed much too much of that corrosion and corruption surrounding Freedom of Information Act (FOIA) requests addressing the ADAPT  
265 computer automation of Social Services I firmly believe that these men are the best that Virginia has been able to raise and that they will continue to take that next step towards righteousness if encouraged to do so. The Honorable Jury's labor in making this general decree can help enrich our commonwealth with ennobled leaders for generations to come.

270 11) In order for our Statute regarding VA§18.2-481(5) felony to have power to constrain these crimes, the felony and its perpetrator must be separated from the honorable office under whose vestment the crime is committed. When a criminal is defended by the state and made immune to personal liability for his crime then the law is of no material protection to any citizen not counted

in the elite. This is shockingly true. Even now, when a Judge wrongs a petitioner with  
275 VA§18.2-481(5) felony and thereby gives the petitioner a right-to-remedy with right-of-original  
jurisdiction at the Virginia Supreme Court, the Clerk of the Virginia Supreme Court has  
dismissed the pleading without hearing and removed public record of the petition against the  
lower court judge's VA§18.2-481(5) felony. Apparently, if you are not at least represented by  
the elite, your equity interest in the Sovereign may be usurped without leaving so much as a  
280 ripple. That is the result of Virginia's elitist tradition when unbounded by VA§18.2-481(5). I  
pray that the Jury finds the following model decree true to our Constitution, our Statutes, and the  
equity each Citizen has in their Commonwealth. It is essential to the power of the Jury's decree  
that it preserve the authority of our Constitution and Statutes as constructed by our authorized  
representatives and it may do this best by defending the Sovereign from false insinuations of  
285 guilt. Please grant the following Declaratory Judgment as authorized by VA§8.01-191 :

*DECLARATORY JUDGMENT: No agency of the Sovereign People of Virginia, USA, has  
authority to commit treason against its sovereign. Any person committing such a crime  
under the color of an agency's vestment is naked in that crime and has no power to  
290 corrupt the fabric of his office. Association and subterfuge do not have sufficient  
authority to graft that guilt onto the Sovereign. A VA§18.2-481(5) wrong against any  
person of the Sovereign People of Virginia, USA, has remedy against the wrong and  
wrong-doing individual in both criminal and civil law. The Court may be the required  
second witness to the evidence of treason. The court's witness of the evidence is  
295 particularly strong when the evidence is public record created by the accused.  
Moreover, when a treason conviction is as honor impugning as is a perjury the Judge*

*should consider including these words from our perjury statute in his judgment, "forever incapable of holding any office of honor, profit or trust under the Constitution of Virginia, or of serving as a juror"*

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**Pause for the Jury's questions.**



12) Particular VA§18.2-481(5) felonies that bring me to pray for the Sovereign People's declaration of the law occurred under of the color of the Virginia Marine Resources Commission by the persons of Jerry Showalter, Bob Grabb and an unnamed MRC Law Enforcement Officer.

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12A) The context of Jerry Showalter's and Bob Grabb's wrong is my application for oyster bottom leasehold in the Lynnhaven and Pagan Rivers and my patent pending system of shellfish culture. In part the system's devices apply the reproduction strategies of certain more evolved shellfish, like the freshwater pearly mussel, to the challenges of propagating of our clams, scallops and oysters. The simple inventions that apply these reproductive strategies are environmentally unobtrusive, inexpensive, and small. One hundred bushels of broodstock may spawn over ten billion shellfish in one year. The capacity of our water's shellfish to further enrich Virginia is astounding. Given enough shellfish, it is mathematically conceivably that the whole of our estuaries could average producing more than 10,000 pounds of seafood per acre per year. Such a level of production is less than what a Soybean field produces when compared on a dry-weight and ash-free basis. One year's operation of the Mama Cass hatchery, if given the benefit of the rule-of-law, can be sufficient to enable civically managed shellfish leaseholds to earn 35 million dollars towards funding an estuary restoration center and public park at Pleasure House Point. And that is only the small beginning of the good that the Mama Cass and my patent pending inventions can bring to Virginia Beach. Provided that my implementation of these inventions is allowed to mature, Virginia's leasehold income alone could approach one billion dollars per year. That is practically enough to fund a college education for every student in Virginia. A continuation of lawless conceit and racketeering would leave me no path but emigration. My patents would emigrate with me.

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12B) In 1999, it seemed reasonable to expect the MRC to be enthusiastic about the restoration of shellfish. It seems that everyone understands that the Bay and its estuaries need far more filter feeding oysters and clams. But certain MRC staff have been far from supportive to me and go so far as felony in suppressing my honorable enterprise.

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12C) This seemed odd until I discovered that a dominant MRC commissioner, Chad Ballard, has a large financial incentive to suppress my operation, more than ten million dollars a year worth of incentive. Such ready assessment of motive would seem most unneighborly had I not seen him lie to the other Commissioners when he said the only alternatives the Commission had was to grant or deny my application for Pagan River bottom even though I was only asking for delay until more of the science behind my aspiration was confirmed with greater certainty. Commissioner Ballard appeared to be set on his path when Dr. Burreson of VIMS interjected a bit of unsubstantiated superstition or perjury to support Commissioner Ballard's intent. And all I was asking for was a bit of time for science. The players revealed themselves by their actions.

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Chad Ballard is Virginia's dominant cultured hard clam producer. His staff has made statements that are consistent with producing about 100 acres of clams per year adding up to about 100 million clams. With the 2001 wholesale price for littlenecks in New York at about 24 cents per clam that one hundred million clams a year is worth twenty-four million dollars. If production is expanded and costs lowered as is reasonable in a maturing industry the market price for clams can fall dramatically, perhaps to ten or twelve cents. Ballard does not own my pending patent and will not benefit from it.

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12D) I did not wish to burden myself with hasty conclusions about the motives and integrity of these people on whose honor we rely. So I made application to lease that Pagan River bottom  
350 once again. No one else wanted it but me.

12E) But Bob Grabb at the MRC rejected my application without any regard for due process defined by law. This felony of resisting the execution of §28.2-606, §28.2-607, and §28.2-608 may be given the color of law but it is not the law in fact.

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12F) I ask the Jury to declare the power of our Constitution to determine the interpretation of the Statutes so the culpability of Bob Grabb's variety of VA§18.2-481(5) felony may be made plain to all and perhaps avoided in the future.

360 *REQUESTED DECREE: The Virginia Constitution Article IV Section 12. Form of*  
*laws states: No law shall embrace more than one object, which shall be*  
*expressed in its title. . . . Therefore No agency of the Sovereign People of*  
*Virginia has authority to construct a semblance of law from excerpts of the*  
*Statutes such that the excerpts are applied in fashions incompatible with the*  
365 *statute's title. Resisting the execution of the true statutes under the color of such*  
*a falsified construction of the Statutes is a conceit of authority against the*  
*Sovereign People and a VA§18.2-481(5) felony. Any person committing such a*

*crime under the cover of an agency's vestment is naked in that crime and has no power to corrupt the fabric of his office. Association and subterfuge do not have*

370 *sufficient authority to foist such culpability upon the Sovereign.*

*In particular, should the responsible person at the Virginia Marine Resources Commission resist fulfilling the due process defined in §28.2-606, §28.2-607, and §28.2-608 without his being granted the full authority of VA§28.2-611 as limited*

375 *by its title, and authorized officer, that responsible person is committing a VA§18.2-481(5) felony.*

Pause for the Jury's questions.

12G) Then my father applied for 40 acres of oyster bottom in the Lynnhaven River. After the time of notice was past Jerry Showalter, chief of the MRC survey office hemmed and haw about

380 what the law *might* be and then refused to survey the area advertised, but he would survey some other area if I would accept it. His resistance of the law eventually solidified around his objection that the law did not allow him to lease any bottom above the mean low water mark. His representation of law is not true for oyster bottom that is island at low tide and therefore not a portion of any riverbank land title. His fraudulent semblance of law would prohibit oyster

385 culture in the bulk of the intertidal zone where oyster survival to breeding stock size and age

increases by at least tenfold. Even that semblance was a sham in that we were given some intertidal areas of mobile sand and prohibited from deeper water areas of stable bottom. The leasehold we were allowed was little more than a sand trap able to destroy any ordinary shellfish cultural practice.

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DECLARATORY DECREE: If any person including the staff of the MRC dislikes an application they may register the protest in accordance with the Statute so the protest may be resolved in open Commission hearing. Any MRC staff that acts as a gateway to prevent the execution of the statutes with respect to that application is resisting the execution of the law under the color of its authority and is committing a VA§18.2-481(5) felony.

395

12H) Rather than bear the delay of an<sup>4</sup> argument and lose the growing season my father accepted the 12 acres of bottom with high current and such drifting sand that would be worthless to anybody not using some device like mine. Even with my inventions the bottom was limited in its uses but I was able to begin testing one of my inventions. After the first lease was assigned I applied for the bottom I needed. It was then that Jerry Showalter flatly stated that I was not going to get anymore bottom in the Lynnhaven River. After making application for twenty acres and paying all the required fees Jerry Showalter refused to survey the bottom as the law requires.

400

405 I have even tried to pay for the survey in advance, but Jerry Showalter refused to take the money. Jerry Showalter stated that "You are not going to get any more bottom in the Lynnhaven River." Jerry Showalter defiantly disregards his constitutional obligation as subordinate of the Governor to *"take care that the laws be faithfully executed (Article V Section 7)"* and to take particular care to faithfully execute the Statutes that define his office at the MRC. Neither the  
410 stewardship of Virginia's water nor the law has any bearing on his behavior. Jerry Showalter's motive may be hidden but it could reasonably be any of the following, all of which are criminal in their intent: 1) he could be looking for a bribe, 2) he may be executing the crime for pay, or 3) he could be motivated by ravenous conceit and a desire for "And-what-can-you-do-about-it" thrills.

415 Moreover on June 21<sup>st</sup> of 2003 the unnamed MRC Officer tried to shutdown my hatchery by making up the law to suit his purpose and Commissioner Ballard's business interests. Fortunately the MRC officers were in the presence of two very professional USCG officers and in the presence of Virginia Beach Officer Brian Becker. Officer Becker exudes a sense of  
420 trustworthiness, even nobility.

When I told the unnamed MRC Officer that he was being ridiculous and he could not just make up Virginia's law to suit his notion and that doing so was a class 2 felony called statutory treason, the unnamed MRC Officer's partner snickered. I would have been greatly afraid of these  
425 will-full felons armed-with-the-power-of-the-state were it not for the calming presence of Virginia Beach Officer Becker who vouched for the unnamed officer's character. I sincerely pray that Officer Becker is right in this. Perhaps, it was youth and lack of training that was the

caused the MRC officer's misstep. In deference to Officer Becker, I make no effort to remember the MRC officer's name.

430

In the USCG inspection of my vessel note was made of my distress signal launcher – a 12-gauge shotgun. That distress signal launcher has now been removed from my boat so as not to give MRC officers excuse to advance more racketeering by murdering me in a Ruby-Ridge-like fashion. I no longer have anything that could be viewed as a firearm aboard my vessels.

435

This pleading is not about assigning specific guilt and tort-feasance; This pleading is intended to re-establish the authority of the Sovereign to define the lawful behavior of its agents by means of the Constitution and Statutes. The opposite of lawful behavior by its agents, who are vested with their agency solely by the authority of the law, is resisting the execution of the law under the color of the law. It is the law that defines their office and authority. Resistance to the law under the color of the law's authority is defined as a felony in Virginia though that statute appears to be ignored – until your decree encourages our officials to take their obligatory notice of our law.

440

12-I) Those officials guilty of felonies like Mr. Showalter's prefer that we rely upon a "Writ of Mandamus" to gain execution of the law. This makes sense from the felon's point of view. The writ is hard to get, it has very small teeth, cannot bite the criminal with damages inflicted by the crime, and is pursued at the victims' expense while the criminal is getting paid for his efforts and while the criminal has the resources of the commonwealth to defend his crime. This stacked deck is no material remedy at all. And without a remedy that balances the wrong, any right is not much more than a sham.

450

12-J) And what is worse about Mandamus is that a Jury trial cannot be elected so there is no way to diminish the power of the elite to “fix it”. I pray that all our judges are always so bold and incorruptible that such lapses in honor never occur. But I know enough of our history to know that with respect to our society and our courts that there has always been a next step towards righteousness to take. Because of that history it is easy to believe that our Judiciary is now the most honorable that we have ever been able to produce. Yet, there is always that next step to take. Even now it is an open custom for many Judges of Virginia to feloniously wrong their Sovereign by defying VA § 16.1-69.35:2. Also, with respect to the Virginia Freedom of Information Act it has looked too chummy in Richmond to not be the “appearance of impropriety” which Judges are obligated to avoid. Therefore, I am particular in asking the Honorable Jury for the following declaratory decree as no Judge may honorably rule on this matter because of their conflict of interest:

DECLARATORY DECREE: No agent of the sovereign people can advance their personal notions as statute or duly authorized administrative code without dispossessing the Sovereign People of their law and of the authority to set the bounds of their law. This dispossession against the Sovereign People is also a dispossession against the individual citizen’s proprietary interest in the Sovereign. The Constitution of Virginia gives the dispossessed individual a right of Jury trial to seek equable restitution of their possession. Writ of Mandamus is not the only vehicle for winning execution of the law. Even in the Virginia FOIA where “writ of manadmus” is described as a remedy it is explicitly on a “may”



basis. The wronged citizen may bring the VA§18.2-481(5) wrong before a Jury to seek restitution and damages from the wrong-doer doer in their personal capacity since no treason may be committed by any agency of the sovereign -  
475 treason may only be committed by persons. The equity harming and committed-by-persons nature of statutory treason applies to agents of both the state and federal sovereign.

12-K) Jerry Showalter has also resisted the execution of the Freedom of Information act. So  
480 also has Richard Williams, the administrator of the Virginia Fisheries Resource Grant Program (see appendix). The result of Freedom of Information Act enforcement by means of VA§18.2-481(5) and Jury trial is of great value to the people. The Jury's declaration that treason statute bears upon FOIA resistance will make ordinary FOIA transactions work better because of the Jury's definition of as VA§18.2-481(5) an alternative.

485 DECLARATORY DECREE: All agencies of the People of Virginia, vested with their agency by law, shall take care that the Freedom of Information Act is faithfully executed, for if a person under the color of that agency, resists the execution of the law they expose themselves to remedy under VA§18.2-481(5).

12-L) Perjury allows someone to insinuate falsity into the honorable due processes of our  
490 judicial and quasi-judicial bodies commissioned to execute the will of the sovereign people. Perversion of that due process by means of perjury can sometimes be a means of "Resisting the execution of the law under the color of the law's authority". Virginia's perjury statute appears

too weak to enable a remedy to any wrongs inflicted on a citizen by perjury. Given the Jury's declaratory decree, VA§18.2-481(5) can be sufficient to form both civil and criminal remedies

495 to the perjury provided the honorable Jury makes a decree connecting a treasonous result to an effecter crime of perjury. In the case of VIMS' Dr. Gene Burresson such a remedy is essential to the advancement of Marine Science in Virginia and the science enabled restoration of our waters. Dr. Burresson of VIMS is the man responsible for advising the Virginia Marine Resources Commission on Marine Science. VIMS role in this is defined by statute § 28.2-

500 1100(2). The scientific examination of evidence for meaning is hobbled and substantially disabled by the presence of a pontiff-like authority. When that pontiff embraces perjury as a prerogative of his ruling the harm to Virginia is immense and certainly worthy of a class 2 felony conviction no matter how much his office is used as a fig leaf. The perjury by Dr. Gene Burresson of VIMS may be provable once the VAMRC has acquired due respect for the FOIA.  
505 In order to use that evidence to remove Dr. Burresson from his role as marine science pontiff I ask the Honorable Jury for the following declaration of the law.

DECLARATORY DECREE: When, by means of perjury, someone to insinuates a perversion of purpose into the sovereign's judicial and quasi-judicial bodies, such that the color of law is given to the result of that perversion, it is a  
510 usurpation of the sovereign's authority and the execution of the law has been resisted under the color of the laws' authority. Such a perjury exposes the perjurer to remedy to civil and criminal under VA§18.2-481(5).

13) I will honor the labors of this Honorable Jury by using the bounds of the clarified law and evidence to press criminal charges against Jerry Showalter, Bob Grabb, William Rickards,  
515 Thomas Price, and Dr. Gene Burresson of VIMS to the full extent supported by the law. Criminal prosecution will probably produce little more than probation given Virginia's long tradition of overlooking §18.2-481(5) felony. Even though I do not wish to spend anymore time on this prosecution than essential I expect to pursue a subsequent civil remedy that may apply enough pressure so that the racketeering boss will be fingered for prosecution.

520

What I really want is to spawn and steward a great nation of shellfish such as is needed to restore the prosperity of our waters. What I need most is the protection of my community so I can attend to my work. And that work will require much attention – I cannot afford to remember past grievances unless that is required to secure the present and the future.

525

But Bob Grabb has felonious conceit in his heart. He wishes to fight and thereby justify himself rather than let the past be past and let his honorable duties be present. Bob Grabb is also quick to lead a few 'good old boys' at MRC engineering into violating VA§18.2-481(5) even though the 'good old boys' appear to have little criminal intent. Therefore, I ask for additional declaratory  
530 decrees to forestall bureaucratic attack from Bob Grabb.

14) I anticipate this unwarranted and destructive retribution to attack five aspects of my shellfish culture: 1) an on-estuary bottom nursery called a Bottom Upweller System ( BUPSY ) and 2) a shellfish hatchery in my boat and 3) The cultivation handling of clams on bottoms that have

535 harvest restricted for sanitation reasons and 4) a 2500 acre Chesapeake Bay leasehold under application.

14-A) Mr. Grabb has already insisted that any shellfish aquaculture operation requires his permit. This is a felony under the statutes of Virginia. This felony was repeated by the unnamed MRC  
540 officer when he boarded my vessel on June 21<sup>st, 2003</sup>. This behavior of Grabb and the unnamed MRC officer is a felonious and shameless resistance of Virginia Administrative Code 4 VAC 20-335 which states.

*This regulation authorizes shellfish aquaculture structures that may be placed on and immediately above privately leased shellfish grounds without an individual  
545 permit from the Habitat Management Division of the Marine Resources Commission. . . . Structures shall not extend higher than 12 inches above the bottom substrate. . . . No structures may cause more than a minimal adverse effect on navigation.*

550 Therefore, I pray the Court for the following declaratory Decree (14-A1):

DECLARATORY DECREE: All agencies of the People of Virginia, vested with their agency by law, shall take care that the duly authorized Virginia Administrative Code is faithfully executed, and that no personal opinion is presented as being duly authorized Virginia Administrative Code or statute. Such  
555 a conceit of authority resists the execution of the Virginia Administrative

Processes Act (§ 2.2-4000) under the color of that agency, and the perpetrators expose themselves to remedy under VA§18.2-481(5).

Moreover it is the understanding and declaration of this jury that boats, ships and other water-born vessels, even if peculiar as an ancient coracle, are governed by

560 statute and regulation such that applying the definition of '*shellfish aquaculture structures*' to those watercraft would make the term '*shellfish aquaculture structures*' overly vague and would bound against the intent of existing statutes governing watercraft, would damage the established property right of having live wells in a boat, and be a conceit of authority in resisting the Virginia  
565 Administrative Processes Act such that the offending official exposes themselves to remedy under VA§18.2-481(5).

Moreover it is the understanding and declaration of this Jury that the apparent intent of 12 inch height limit in 4 VAC 20-335 relates more to the potential for obstructing navigation than any other purpose. Therefore it is the decree of this  
570 court that the 12 inch measure shall be taken from the substrate as it lay when

the structure was placed and that lay will be inferred from the level of the substrate adjacent any scour pit that may develop under the structure.

In that the June 21<sup>st</sup>, 2003 boarding the unnamed MRC Law Enforcement Officer also attempted to prevent my cultivation of clams by saying the law forbids my cultivation of shellfish on  
575 condemned bottom. I protested, saying that the law said no such thing. He insisted that it did. I said I bought these clean water clams and brought them here to breed them – there was been no harvesting of clams in my operation. He found that acceptable but endeavored to brow beat me into accepting that I could not retrieve my clams for cultivation once they where buried under the sand. I made no additional argument at that time since I knew I would have to make the  
580 argument in court for it to mean anything. Therefore, I pray the Honorable Jury take notice of this Virginia Statute and declare the meaning of the law as it applies to shellfish cultivation.

***“ 28.2-810. Removal, transportation, etc., from polluted ground; penalty.***

585 *A. It is unlawful for any person to take, catch, transport, sell, offer for sale, remove, receive, keep or store shellfish **from** condemned areas, or relay shellfish taken **from** such areas, until the Commissioner of Marine Resources or his designee has issued a special permit. The permittee shall carry the permit when engaged in such operation.*

Please note that the statute prohibits transporting shellfish from polluted areas without special  
590 permit. A transport restriction is not a cultivation restriction. The accepted and common practice of oyster gardening in those condemned areas confirms this distinction. Applying this law against clam propagation is an unvarnished attempt to suppress clam production and thereby maintain the price level of Commissioner Ballard's clams. In order to remedy this racketeering-like application of Ballard's personal business agenda it is necessary for the Honorable Jury to  
595 exercise their sovereign authority to judge both the facts and the law. Therefore I sincerely pray

for the following declaratory decree as there will be successful restoration of Virginia Beach's waters only when there are enough clams to fill their ecological niche and pioneer the bottom as needed to start the bottom community's development and succession so that an oyster-dominant climax community is possible.

600 Therefore, I pray the Court for the following declaratory Decree (14-A2):

DECLARATORY DECREE: It is the understanding and declaration of this Jury that Virginia Statute § 28.2-810 was intended to protect the people from polluted shellfish. That law was never intended to become a weapon used to suppress  
605 shellfish cultivation. The Jury declares that the preposition "**From**" within the text of the statute means that as long as the shellfish within a condemned bottom shellfish cultivation activity stay within the condemned area there is no violation of § 28.2-810. This reading of the law is also required by the "**No law shall embrace more than one object,**" of *The Virginia Constitution Article IV*  
610 **Section 12.** The term "**etc**" within the title of § 28.2-810 may not be used to graft an objective into the law that is incompatible with the law's intent. The MRC is commissioned to steward Virginia's Marine resources. Stewardship is never a license to pursue a Commissioner's business interest in a fashion that harms the Commonwealth's marine resources. Should any officer of the MRC insist that  
615 such a cultivation activity is a § 28.2-810 violation they commit VA§18.2-481(5) felony.

**14-B)** VA § 28.2-609 and § 28.2-611 are ambiguous enough in construction and context that they invite abuses by the shellfish baron in which the meaning of the law can depend upon it is applying to.

620 Mr. Grabb is quick to define this law in a manner which advances Chad Ballard's business interest in suppressing my shellfish production.

While in there is definitely a 250 acre maximum size limit on shellfish leasehold assignments except in the Chesapeake Bay;

and there is definitely a 5000 acre maximum size limit on shellfish leasehold assignments; and

625 applications within the Chesapeake Bay "*in waters from fifteen feet deep or more*" "*shall be made to the Commissioner*" (as are all shellfish leasehold applications) ;

there is be no **statutory** maximum size limit on shellfish leasehold assignments within the Chesapeake Bay in waters from less than fifteen feet deep other that the 5000 acre maximum.

630 Certainly, it is within the spirit of the statutes to apply for 2500 acres of Chesapeake Bay bottom that has about a quarter of the acreage in less than fifteen foot of water.

Here are the statutes:

***"§ 28.2-609. Restrictions on assigned acreage and applications.***

635 *No assignment, except in the Chesapeake Bay, shall exceed 250 acres. An applicant, after having 250 acres of general oyster-planting ground assigned to him, shall not apply for another assignment of oyster grounds within six months from the day his assignment was recorded and completed. If an assignment is not made within six months after the expiration of the notice, the application shall, upon the expiration of six months, lapse and become void, unless the*

640 *Commissioner allows an extension. When a protest has been filed with the*



*Commission against the granting of an application, the application shall not lapse until the Commission has finally acted upon the application. "*

*"§ 28.2-611. Application for general planting ground in Chesapeake Bay; acreage allowed; annual rental.*

*Application for general planting ground in the Chesapeake Bay in waters from fifteen feet deep or more shall be made to the Commissioner. The Commissioner shall have the right to accept or reject any application. No more than 5,000 acres may be assigned to any applicant. The assignment shall not interfere with the established fishing rights. Any such application, surveying, and marking shall conform to the law pertaining to oyster-planting grounds. The annual rent per acre in the Chesapeake Bay shall be determined by the Commission, but in no case shall be less than seventy-five cents annually per acre. "*

Therefore, I pray the Court for the following declaratory Decree:

It is the understanding and declaration of this jury that all applications for shellfish bottom leasehold are made to the Commission or Commissioner, whether than from waters greater than fifteen foot deep or not. Moreover a Chesapeake Bay bottom leasehold application will not be assigned such that any applicant receives more than 5000 acres of leasehold. There is no other statutory limit on the size of an individual Chesapeake Bay shellfish leasehold application other than the applicants aggregate limit of 5000 acres. No agent of the sovereign may construct the law according to their notion that the application size limit for Chesapeake Bay bottom shellfish leaseholds is 250 acres. Presenting such a personal opinion as being official and duly authorized Virginia Administrative Code or statute exposes their personal capacity to remedy under VA§18.2-481(5).

The previous prayer for declaratory decree is not only good law it is good for your community. I have already seeded that bottom with about 3 billion 200-micron-sized clams and about 26 billion freshly spawned clam eggs. My intent is to seed the whole 2700 acres with one billion surviving clams. That is enough clams to flood the market and crash the price of clams unless that bottom is given the protection of leaseholder stewardship such as provided by Shellfish-Unlimited. Given such a substantial and productive leasehold Shellfish-Unlimited intends to make a respectable offer on Mr. McLesky's Pleasurehouse Point property so that it might become a estuary restoration center able to spawn the full cohort of species in the billions needed to effect complete restoration. And given the large pool of Shellfish-Unlimited clams coming to market Shellfish-Unlimited hopes to form a cooperative with 100% of the bottom leaseholders in Virginia Beach so that those waters might be seeded and restored without provoking pockets of unrestrained harvest that will damage the existing restoration and financially inhibit future restoration efforts by crashing the market. Watermen and many other leaseholders are so cash-in-hand conscious that it is a vain effort to attempt forming a cooperative prior to achieving a fully populated leasehold to provide a funding foundation to the cooperatives income pool. Some leaseholders have enough foresight to be agreeable now but there are enough holdouts willing to take the catbird seat that a premature formation of the cooperative and premature restoration of the Lynnhaven River and Broad Bay would only cause the shellfish market to crash and thereby sow discord between neighbors. Therefore, it is in Virginia Beach's Interests that the MRC grant stewardship on the 2500 acre Lynnhaven Roads leasehold and also on the 200 acre leasehold inside Lynnhaven Inlet. That is the location of the hatchery vessel. So many clam seed will be spilt in the handling that full seeding of the bottom is unavoidable. Right now the sanitation condemnation provides some small protection to the bottom but that sanitation

690 restriction will be lifted once the shellfish cleanup the water – then a multitude of commercial  
public bottom clammers would rapidly strip the shellfish I seeded – That bottom needs leasehold  
protection so that it can be properly stewarded. Given the maintenance of a large standing stock  
of shellfish in the surrounding waters it will be possible for Virginia Beach to have a dig-your-  
own clams operation on the flats. Without the filtering provided by large standing stock of  
695 shellfish in the surrounding waters the flats will get condemned because of the excrement from  
flocks of seabirds. And without the flats in the leasehold it may not be economic to preserve the  
clam stock in the deeper waters as is needed to lift the sanitation condemnation. All the parts  
must be in place and functioning for any of the Shellfish-Unlimited restoration effort to work.  
The 2700 acres of leasehold is just about the smallest that may precipitate community concord  
700 and estuary restoration. In that the Chesapeake Bay leasehold is bracketed by bottoms having  
military significance and control the 2500 acre Chesapeake Bay may be large enough to do the  
job.

The previous prayer for declaratory decree is not only good law it is good for your community.

705 **15)** Please make one more declaration of the law. Without this declaration of the law, the  
financial burden of protecting my hatchery inventions will be made more than I can bear. And  
there must be patent law enabled restraint on the spread of my techniques or the price of clams is  
sure to fall so fast that the Coastal Restoration Institute and Marketing Cooperative will never be  
fundable by clams.

710

Therefore, I pray the Court for the following declaratory Decree:

It is also the understanding and declaration of this jury that the US Code of Federal Regulations contains:

715                   ***“CFR Title 37 § 1.142 Requirement for restriction.***  
                          *(a) If two or more independent and distinct inventions are claimed in a single*  
                          *application, the examiner in an Office action will require the applicant in the*  
                          *reply to that action to elect an invention to which the claims will be restricted, this*  
720                   *official action being called a requirement for restriction (also known as a*  
                          *requirement for division). ”*

It is also the understanding and declaration of this jury that the this duly  
authorized regulation specifically states both “*independent and distinct*”. When  
an agent of the sovereign chooses to execute that law as either *independent or*  
*distinct* ” they commit a conceit of authority that is a VA§18.2-481(5) felony  
725                   under the statutes of Virginia. When committing such a criminal conceit of  
authority the agent exposes their personal capacity to civil and/or criminal  
remedy under VA§18.2-481(5) as the criminal's honorable office may never  
commit treason against its sovereign. Moreover, such a crime harms a citizen's  
equity interest in their sovereign.

730  
  
16) Given appropriate declaratory decree and the witness of the court, successful criminal and  
civil prosecutions against Jerry Showalter, Bob Grabb, William Rickards, Gene Burresson and  
Thomas Price are possible. Under the pressure of that prosecution the defendants may finger a  
boss, in which case that boss could lose both estate and freedom. With the kingpin criminal  
735                   having so much to lose perhaps the criminals will be gentled and give me no further wrong.

Thank you for your time, attention and bold declaration of Virginia Law.

Russell Patton Davis

740

in the COMMONWEALTH OF VIRGINIA, to-wit

I, Russell Patton Davis, Petitioner, herein, being duly sworn say that I have read the forgoing and know the contents hereof, and that the same is true to the best of my knowledge, information, and belief.

745

Russell Patton Davis

Acknowledged, subscribed, and sworn to before me this 12th\_ day of August, 2004.

750

\_\_\_\_ Notary Public, my Commission Expires: \_\_\_\_\_

Russell Patton Davis  
96 Shellfish Culture Inventions with most in International Patent Pending  
1521 Quail Pt. Rd., Va. Beach, Va. 23454 Phone: (757) 651-2234  
August 16, 2004

The Honorable Judge of The Circuit Court of Virginia Beach Frederick B. Lowe  
Presiding over "Petition for Declaratory Decree By Jury" 810CL04002155-00  
**Virginia Beach Judicial Center, Building 10B**  
**2305 Judicial Boulevard**  
**Virginia Beach, VA 23456-9002**  
**Phone: (757)427-4181**

In Re: Russell Patton Davis, Citizen of Virginia  
Petition for Declaratory Decree by Jury  
At Law No.: CLO4-2155

Your Honor:

With respect to your August 9<sup>th</sup> response to the July 30<sup>th</sup> Motion to hear I will grant that the needed remedy to the cause is probably unusual and therefore outside of the Honorable Court's comfort zone as established by custom.

I will also grant that a complete remedy to my cause is outside the matter currently being pleaded. Never the less, the Statute of Virginia, § 8.01-191. , states

*"This article is declared to be remedial. Its purpose is to afford relief from the uncertainty and insecurity attendant upon controversies over legal rights, without requiring one of the parties interested so to invade the rights asserted by the other as to entitle him to maintain an ordinary action therefore. It is to be liberally interpreted and administered with a view to making the courts more serviceable to the people."*

I am only stating a cause of controversy over the bounds of our law to be remedied by declaration of the law. I am not stating a cause of action sufficient to require the engagement of adverse parties because I know that the rules of such an engagement are currently too obscure for me and those rules would be used to *"resist the execution of the laws under the color of its authority"*. Surely, I would lose my rights under any such engagement at this time. This matter is currently just between me and the law.

There is no place in that controversy for personal adversaries whether they be joined or interpleaded. The place for those adversaries is defined by § 8.01-186.

790

*Further relief.*

*Further relief based on a declaratory judgment order or decree may be granted whenever necessary or proper. The application shall be by motion to a court having jurisdiction to grant the relief. If the application is deemed sufficient the court shall, on reasonable notice, require an adverse party whose rights have*  
795 *been adjudicated by the declaration of right to show cause why further relief should not be granted forthwith.*

I have made no such motion for further relief.

800

An engagement able to achieve final remedy will probably mature from declaratory decree, through criminal prosecution, then through civil prosecution and perhaps ending with another criminal prosecution.

805

I also grant that the low level of my writing skills does not make the unusual task easier for you. Please recognize that I understand that I am not a lawyer, am only a very poor writer and would not be so bold as to stand before you with this pleading unless  
805 compelled by necessity. In the interests of Justice, please be so gracious as to tell me what portions of my pleading must be rewritten in order to be understood. I am too blind in my communication skills to know on my own. Please offer any specific critique you see fit and I will make amends as best I may.

810

My humble best will have to serve, as there is no alternative. I pray that my modest skills will mature as the matter matures into an adequate remedy that can only be achieved through the progression of this action and subsequent actions.

I also grant that the original pleading was so badly written that it was hard to follow. I

815 ask that the Court accept the attached amended pleading and appendix.

Knowing my level of communication skill, I have no objection to the Honorable Judge taking as much time as the Honorable Judge needs to firmly understand the distinction between duty and preference. Even so, I ask for the Honorable Judge's due diligence, as I must gain closure on this matter so that I may accept the duties that go  
820 with a steady paying job. Which job I take is significantly dependant upon the outcome of the petition for declaratory decree. If I have been excluded from the benefit of Virginia law I need to know very soon as my family's finances cannot bear the cost of continued uncertainty.

Again, my prayer for the Court's diligence in this Declaratory Decree is a last  
825 resort. The racketeering-like pattern of "resistance to the execution of the law under the color of its authority" has so nearly confounded and dispossessed me that I may have to emigrate to preserve my patent ownership rights to the future of the shellfish industry. While I love Virginia, have 14 generations here, including young children and elderly parents, a continuing lack of remedy to §18.2-481(5) felony can bequeath the future of  
830 the shellfish industry to Canada. The over hundred-fold increase in hatchery economy achieved by my invention is physically and financially able to bootstrap the restoration of the Chesapeake Bay to the prosperity witnessed by John Smith.

Please allow the rule of our sovereign people's law to prevail in this matter.

May God save our Commonwealth and our United States.

835

Russell P. Davis



**COMMONWEALTH OF VIRGINIA**

EDWARD W. HANSON, JR.  
ALAN E. ROSENBLATT  
THOMAS S. SHADRICK  
FREDERICK B. LOWE  
A. BONWILL SHOCKLEY  
H. THOMAS PADRICK, JR.  
A. JOSEPH CANADA, JR.  
PATRICIA L. WEST  
STEPHEN C. MAHAN



CIRCUIT COURT  
CITY OF VIRGINIA BEACH  
JUDICIAL CENTER, BLDG. 10, 4TH FLOOR  
2425 NEMMO PARKWAY  
VIRGINIA BEACH, VA 23456 9017  
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**SECOND JUDICIAL CIRCUIT**

Direct Dial # 427-8880

August 9, 2004

Mr. Russell Patton Davis  
1521 Quail Point Rd.  
Virginia Beach, VA 23454

**In Re: Russell Patton Davis, Citizen of Virginia  
Petition for Declaratory Decree by Jury  
At Law No.: CL04-2155**

Dear Mr. Davis:

The matter of the above-referenced file came to be heard on July 30, 2004. The court has reviewed the petition and other documentation submitted, and it appears that the petition does not state a cause of action for which this Court could provide a remedy.

Very truly yours,

A handwritten signature in black ink, appearing to read "F. Lowe", with a long horizontal line extending to the right.

Frederick B. Lowe

FBL/dhw/nc